IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15593 of 2006

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA
AND
HONOURABLE MR.JUSTICE H.B.ANTANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether Their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any Order made thereunder?

5 Whether it is to be circulated to the Civil Judge?

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RANJITSINH K. CHUDASMA - Petitioner
Versus
UNION OF INDIA AND ANOTHER - Respondents

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Appearance :
MR CB DASTOOR for the Petitioner.
MR HARIN P RAVAL for the Respondents.

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE H.B.ANTANI

Date : 13/02/2007

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

1. **RULE**. Learned Assistant Solicitor General waives service for the respondent-Authorities.

2. At the outset, it must be stated that learned Counsel Shri C. B. Dastoor for the petitioner has not challenged the impugned order dated 11-10-2005 on merits. He has restricted his challenge only to the punishment. According to him, it was a highly disproportionate punishment not commensurate with the guilt established in the Departmental Inquiry. He submitted that the petitioner was in CRPF and posted at a very sensitive area. He was away from his home-town since long and that too at a very long distance. He became habitual to consume liquour. For that, in the past, he was punished for 7 times with some lesser punishment. However, no attempts were made by the Authorities to see to it that he improves upon himself. If little care was taken by the Authorities, he would have not committed misconduct. Shri Dastoor further submitted that if one more opportunity is given to the petitioner, then he will not commit such misconduct, provided he is fully recovered from his bad habit of consuming liquour. He submitted that removal of service is the extreme

penalty not only to the delinquent-petitioner but to his entire family also. Considering his otherwise blot less service, one more opportunity may be given.

3. Having regard to the facts and circumstances of the case, learned Assistant Solicitor General Shri Raval submitted that if the petitioner makes proper representation to the highest authority i.e. respondent No. 1 - Additional Deputy Inspector General of Police, giving assurance in it that he will try to improve upon himself, then his case may be considered sympathetically and the Authority may try to covert the maximum penalty of removal of service into any lesser punishment. However, he submitted that the petitioner shall not be given any back-wages if at all he is taken back in service with some other punishment. Shri Dastoor frankly conceded that the petitioner will not be entitled for any back-wages during the period for which he remained out of job.

4. In view of the above, while disposing of this petition, we direct the petitioner to make

proper representation to respondent No. 1 within four weeks from today. On receiving the said representation, the respondent No. 1 shall decide the same sympathetically as early as possible within 3 months from the date of receipt of the representation from the petitioner.

5. With this observations and directions, this petition stands disposed of. Rule made absolute accordingly. No costs.

6. Copy of this judgment be made available forthwith to both the learned Counsel for the parties for its immediate implementation.

[B. J. SHETHNA, J.]

[H. B. ANTANI, J.]

/shamnath